

INITIATIVE PETITION

To the Honorable Gayle McKeachnie, Lieutenant Governor:

We, the undersigned citizens and registered voters of the State of Utah, respectfully demand that the following law, to be entitled “**Utah Clean Water, Quality Growth and Open Space Initiative**,” be submitted to the legal voters of Utah for their approval or rejection at the regular general election to be held on November 2, 2004. Each signer says: “I have personally signed this petition; I am registered to vote in Utah or intend to become registered to vote in Utah before the certification of the petition names by the county clerk; and my residence and post office address are written correctly after my name.”

NOTICE TO SIGNERS:

Public hearings to discuss this petition were held at:

- For Cache, Box Elder and Rich Counties, on March 2, 2004, at 6:00 p.m. at Cache County Building, 179 North Main Street, Logan, Utah.
- For Washington, Beaver, Garfield, Iron and Kane Counties, on February 26, 2004, at 6:00 p.m., at Washington County Commission Chamber, 197 East Tabernacle, St. George, Utah 84770.
- For Grand, San Juan, Carbon, and Emery Counties, on February 25, 2004, at 7:15 p.m., at Moab Arts & Recreation Center, 111 East 100 North, Moab, Utah 84532.
- For Utah, Summit and Wasatch Counties, on March 1, 2004, at 10:00 a.m., at Minor’s Hospital, 1354 Park Avenue, Park City, Utah 84060.
- For Sevier, Juab, Millard, Piute, Sanpete and Wayne Counties, on February 26, 2004, at 10:00 a.m., at Richfield City Office, 75 East Center Street, Richfield, Utah 84701.
- For Uintah, Daggett and Duchesne Counties, on February 25, 2004, at 10:00 a.m., at Uintah County Courthouse, 147 East Main Street, Vernal, Utah.
- For Salt Lake, Davis, Morgan, Tooele and Weber Counties, on March 1, 2004, at 4:00 p.m., at Anderson Foothill Branch, Salt Lake City Public Library, 1135 South 2100 East, Salt Lake City, Utah 84108.

THE UTAH CLEAN WATER, QUALITY GROWTH AND OPEN SPACE INITIATIVE

Chapter 14. The Utah Clean Water, Quality Growth And Open Space Initiative

PART 1: GENERAL PROVISIONS

63B-14-101. Definitions.

- (1) “Bonds” means the bonds issued pursuant to Section 63B-14-202.
- (2) “Community Projects” means any of the purposes for which proceeds of the Bonds deposited into the Project Fund may be used as described in Section 63B-14-206.
- (3) “Conservation Projects” means any of the purposes for which proceeds of the Bonds deposited into the Project Fund may be used as described in Section 63B-14-204.
- (4) “Government Entities” means the State and any cities, counties, towns and special districts within the state of Utah.

- (5) "Natural and Cultural History Museums" means institutions that are (a) non-profit organizations designated under Section 501(c)(3) of the Internal Revenue Code; and (b) collect, care for, and exhibit collections of natural or cultural history.
- (6) "Project Fund" means one or more funds to be established by resolution of the State Bonding Commission or by direction of the Quality Growth Commission into which the proceeds of the Bonds shall be deposited and used to finance Conservation and Community Projects.
- (7) "Quality Growth Commission" means the Quality Growth Commission established in Section 11-38-201.
- (8) "Sinking Fund" means the Utah Clean Water, Quality Growth And Open Space Initiative Sinking Fund established under Section 63B-14-211.
- (9) "State Museum of Natural History" means the state natural history museum established by Section 53B-17-601(1).

PART 2: SALES AND USE TAX REVENUE BONDS

63B-14-201. Purpose; Statewide Public Purpose.

It is the purpose of this Chapter to: (i) authorize the State Bonding Commission to issue sales and use tax revenue bonds for the purpose of financing Conservation Projects and Community Projects which are of Statewide concern and constitute a Statewide public purpose; and (ii) by doing so, provide for clean water, clean air, wildlife habitat, parks, agricultural land preservation, quality growth, open space and the protection and enhancement of the natural resources of the State now and for future generations.

63B-14-202. State Bonding Commission authorized to issue sales and use tax revenue bonds.

In order to finance Conservation and Community Projects, the State Bonding Commission shall issue and sell sales and use tax revenue bonds of the State, pledging all of the state sales and use tax revenues of the State for the payment of the principal of and interest on the Bonds. The Bonds will not be payable from or secured by the ad valorem taxing power of the State or otherwise be general obligations of the State, but shall be payable solely from the state sales and use tax revenues of the State.

63B-14-203. Maximum Amount — Use of Proceeds — Deposits — Investment — Disposition of investment income and unexpended proceeds.

- (1) The total amount of Bonds to be issued under this Chapter may not exceed \$150,000,000.
- (2) The Bonds to be issued under this Section shall be issued, in one or more series, within four years from the effective date of this Chapter.
- (3) Of the \$150,000,000 authorized hereby, approximately \$120,000,000 of Bond proceeds shall be allocated to Conservation Projects and approximately \$30,000,000 of Bond proceeds shall be allocated to Community Projects. Net Bond proceeds shall be used by non-profit organizations designated under Section 501(c)(3) of the Internal Revenue Code and Government Entities to accomplish the purposes of this Chapter. It is hereby found and determined that the use of the Bond proceeds for the purposes described herein is for the State's benefit and in furtherance of essential State purposes.
- (4) Proceeds from the issuance and sale of the Bonds shall be deposited in the Project Fund to be administered by the Governor's Office of Planning and Budget on behalf of the Quality Growth Commission.
- (5) The State Bonding Commission by resolution may provide for the deposit of these monies with and the administration, disposition, or investment of these monies by a bond trustee.
- (6) After completion of the purposes and payment of the costs authorized in this Chapter, any unexpended Bond proceeds shall be deposited into the Sinking Fund unless otherwise provided by resolution of the State Bonding Commission.
- (7) The State Bonding Commission, in consultation with the Quality Growth Commission, may from time to time, according to Conservation Project and Community Project needs, issue one or more series of bonds for any of the purposes described herein, subject to the maximum parameters established under Sections 63B-14-205 and 63B-14-207 below, and it shall not be a requirement hereunder that each series of Bonds include projects from each category. Notwithstanding this Subsection (7), upon the issuance of all of the Bonds to be issued under this Chapter, the Bond proceeds allocated shall reflect the approximate amounts required hereby to be allocated to each category of project within the Conservation and Community Projects.

63B-14-204. Conservation Projects.

Conservation Projects shall be those projects undertaken by a Government Entity or a non-profit conservation organization designated under Section 501(c)(3) of the Internal Revenue Code, which preserve, protect or enhance the natural resources of this state or obtain the benefits thereof as follows:

- (1) the acquisition of fee title to, perpetual conservation easements on, or other interests in public or private land for the purpose of preserving watersheds, rivers, lakes and streams, wetlands, uplands, critical wildlife habitat, endangered species habitat, ecological areas, agricultural lands and soils, farms and ranches, sites of cultural and historic significance, motorized and non-motorized trail rights of way, greenways, public access, state and local parklands, and predominantly undeveloped natural lands and open space;

- (2) the enhancement, restoration, or both, of public or private land for the purpose of preserving, enhancing or restoring watersheds, rivers, lakes and streams, wetlands, uplands, critical wildlife habitat, endangered species habitat, ecological areas, agricultural lands and soils, farms and ranches, sites of cultural and historic significance, motorized and non-motorized trail rights of way, greenways, public access, state and local parklands, and predominantly undeveloped natural lands and open space;
- (3) conservation projects and programs which (i) enhance or improve air quality, (ii) provide incentives to meet federal and state air and water quality standards, (iii) assist agricultural producers to comply with federal and state air and water quality standards, (iv) assist with surface water, stormwater and groundwater management and monitoring to improve water quality, (v) inventory wildlife species, (vi) assist to eradicate or control invasive species, (vii) assist with wildlands fire management, (viii) implement transfer of development right programs and banks, or (ix) facilitate sound growth management and land use planning at the state, regional or local level;
- (4) the construction, repair and improvement of (i) park facilities owned or operated by Government Entities, (ii) natural history and visitor interpretive centers, (iii) wildlife management and enhancement structures, (iv) greenways, or (v) motorized and non-motorized trails.

63B-14-205. Bond proceeds allocation to Conservation Projects.

Of the approximately \$120,000,000 in Bond proceeds intended to be allocated to Conservation Projects:

- (1) approximately \$57,000,000 shall be allocated to Conservation Projects selected by the Quality Growth Commission on the basis of a competitive application and proposal process. The Quality Growth Commission will use the following criteria in evaluating projects: (i) the quality of the resource being protected, (ii) the threat to that resource, (iii) the amount to which funds will be matched or leveraged, and (iv) the capacity of the agency or organization to manage the property for the purposes proposed;
- (2) approximately \$20,000,000 shall be allocated by the Quality Growth Commission to Conservation Projects submitted by the Director of the Division of Wildlife Resources;
- (3) approximately \$10,500,000 shall be allocated by the Quality Growth Commission to Conservation Projects submitted by the Director of the Division of State Parks;
- (4) approximately \$16,250,000 shall be allocated by the Quality Growth Commission to Conservation Projects submitted by the Director of the Department of Environmental Quality; and
- (5) approximately \$16,250,000 shall be allocated by the Quality Growth Commission to Conservation Projects submitted by the Director of the Department of Agriculture and Food.

63B-14-206. Community Projects.

Community Projects shall be:

- (1) projects which qualify as Conservation Projects as designated in Section 63B-14-204 above; or
- (2) additional quality of life and infrastructure projects at the county, city and town level consistent with the purposes of the Quality Growth Act, Title 11, Chapter 38 and intended to enhance local communities such as: athletic and recreational fields and facilities, equestrian centers, aquatic centers, city, town and county parks, trails, picnic and camp grounds, fairgrounds, convention centers, capital improvements to city, town or county buildings, water treatment facilities, and development of land use and community and economic development plans. Community Projects described in this subparagraph (2) do not include golf courses, construction of reservoirs or major pipelines, or the grading or repair of roads; or
- (3) State Museum of Natural History and Natural and Cultural History Museums capital expenditures, including structures, exhibit space, interpretive displays, archives, collections and related fixtures and equipment.

63B-14-207. Bond proceeds allocation to Community Projects.

Of the approximately \$30,000,000 in Bond proceeds intended to be allocated to Community Projects:

- (1) approximately \$25,000,000 shall be allocated by the Quality Growth Commission to Community Projects submitted by the Director of the Governor's Office of Planning and Budget. Such submissions will be the result of a competitive application and proposal process developed by the Director of the Governor's Office of Planning and Budget, in consultation with each of the following associations of government (or their successors): (i) Bear River Association of Governments, (ii) Wasatch Front Regional Council, (iii) Mountainland Association of Governments, (iv) Uintah Basin Association of Governments, (v) Southeast Association of Governments, (vi) Six County Association of Governments, and (vii) Five County Association of Governments.
- (2) approximately \$5,000,000 shall be allocated by the Quality Growth Commission to Community Projects submitted by the Director of the State Museum of Natural History.

63B-14-208. Restrictions on the uses of Bond proceeds.

- (1) The proceeds of the Bonds may only be used for transactions involving willing sellers and willing buyers and may not be used in condemnation proceedings.
- (2) Any acquisitions of fee simple interests in land made by a Government Entity utilizing Bond proceeds shall be subject to payments in lieu of taxes. Such payments shall not exceed the rate of taxation for comparable property classifications.
- (3) Any acquisitions of fee simple interests in land made by non-profit conservation organizations designated under Section 501(c)(3) of the Internal Revenue Code utilizing Bond proceeds shall be subject to property taxation so long as the rate of taxation does not exceed rates for comparable property classifications.
- (4) Conservation Projects selected by the Quality Growth Commission on the basis of a competitive application and proposal process as described in Section 63B-14-205 (1) shall require a 25% match comprised of dollars from private sources, government entities or the federal government or in-kind contributions from these same sources of commensurate value.

63B-14-209. Manner of issuance --Amounts, interest and maturity.

- (1) Bonds issued under this Chapter may be authorized, sold and issued in a manner determined by the State Bonding Commission by resolution, including, but not limited to, the manner of execution of the Bonds (including facsimile signature), redemption price and other provisions.
- (2) Bonds may be issued in one or more series, shall bear dates, interest rates, including a variable rate or rates, and maturity dates as the State Bonding Commission determines by resolution; but in no event shall the Bonds mature later than 13 years after the date or dates of issuance thereof.
- (3) The State Bonding Commission may, by resolution or otherwise, make covenants restricting the issuance of additional indebtedness, bonds or notes of the State secured by a pledge of sales and use tax revenues of the State.

63B-14-210. Levy of Sales Tax: Pledge of state sales and use tax revenue.

- (1) Each year after the issuance of the Bonds and until all outstanding Bonds, or any Bonds issued to refund such Bonds, are retired, there is levied a state-wide sales and use tax of .05% in addition to the sales and use taxes authorized and levied by the State under Title 59, Chapter 12, Sales and Use Tax Act.
- (2) The sales and use tax provided for in Subsection (1) shall be levied, administered and collected as provided in Title 59, Chapter 12, Sales and Use Tax Act, and the revenues collected from such sales and use tax shall be applied as provided in this Chapter.
- (3) The Bonds shall be secured by an irrevocable first charge and lien, but not necessarily an exclusive first charge and lien, on the state sales and use tax revenues collected by the State. It is intended that the payment of the principal of, interest on and redemption premiums, if any, due on outstanding bonds be made first from the state sales and use taxes specified in Subsection (1), and, to the extent necessary, that any shortfall in such payment be made from all other state sales and use tax revenues of the State.
- (4) The State pledges to and agrees with the holders of any bonds issued by the State Bonding Commission to which the proceeds of the sales and use tax revenues of the State are devoted or pledged, that the State will not alter, impair, or limit the sales and use tax revenues of the State in a manner that reduces the amount of sales and use tax revenues to be collected by the State, which sales and use tax revenues are pledged or devoted as security for the bonds, until the bonds, notes or other securities secured by such sales and use tax revenues, together with applicable interest, are fully paid and discharged.
 - (a) Nothing in this Subsection (4) precludes alteration, impairment or limitation of sales and use tax revenues of the State or elimination of certain transactions from being subject to the imposition of sales and use taxes, so long as the adjusted historical sales and use tax revenues are in excess of the amount required by the resolution of the State Bonding Commission, authorizing the Bonds, for the issuance of additional parity debt. For purposes of this Subsection, "adjusted historical sales tax revenues" shall be calculated as the total sales and use tax revenues of the State collected for the immediately preceding fiscal year, less the state sales and use tax revenues resulting from the transactions proposed for elimination or after applying the proposed state sales and use tax rate reduction, as applicable.
 - (b) The State and the State Bonding Commission may include the pledge of state sales and use tax revenues set forth in this Section in any offering material used by the State in connection with the marketing of the Bonds.
- (5) At such time as all Bonds issued pursuant to this Chapter have been retired and the debt service obligation related thereto has been satisfied or otherwise discharged, the sales and use tax levied under Subsection (1) shall terminate.

63B-14-211. Creation of a Sinking Fund — Maintenance of bond accounts.

- (1) There is hereby created a sinking fund to be administered by the State Treasurer entitled the "Utah Clean Water, Quality Growth And Open Space Initiative Sinking Fund."
- (2) All sales and use tax revenues resulting from the imposition of the sales and use tax provided in Section 63B-14-205(1) shall be deposited in the Sinking Fund. To the extent necessary to pay debt service on the Bonds, all other state sales and use tax revenues of the State shall also be deposited in the Sinking Fund. Amounts

on deposit in the Sinking Fund shall be used to pay the debt service on the Bonds and to redeem the Bonds prior to maturity, and otherwise shall be used as provided by resolution of the State Bonding Commission.

(3) The State Treasurer and the State Bonding Commission may create separate accounts within the Sinking Fund for each series of Bonds issued.

(4) The State Treasurer or a trustee shall, unless otherwise provided by resolution of the State Bonding Commission, administer and maintain one or more bond funds as established and determined by resolution of the State Bonding Commission.

63B-14-212. Payment of principal of and interest on and redemption premiums of the Bonds.

(1) The Division of Finance shall draw warrants on the State Treasury before any interest, principal, or redemption premiums become due on the Bonds.

(2) After receipt of the warrants, the State Treasurer shall:

(a) promptly pay the warrants from monies within the Sinking Fund; and

(b) immediately transmit the amount paid to the paying agent for the Bonds.

63B-14-213. Investment of Sinking Fund money -- Investment of Bond proceeds.

(1) The State Treasurer may invest any monies in the Sinking Fund in accordance with the resolution of the State Bonding Commission and in accordance with Title 51, Chapter 7, State Money Management Act, until such monies in the Sinking Fund are needed to pay debt service on the Bonds.

(2) The Quality Growth Commission may deposit the net proceeds of the Bonds with the State Treasurer or with a trustee, who may invest the same in accordance with Title 51, Chapter 7, State Money Management Act, until such monies are needed to pay the costs of the Projects.

(3) Unless otherwise provided in the resolution of the State Bonding Commission authorizing the Bonds, the State Treasurer, or as applicable, the trustee, shall retain and deposit

(a) in the Sinking Fund, all income from the investment of Sinking Fund monies and use such income for payment of the debt service on the Bonds; and

(b) in the Project Fund, all income from the investment of Bond proceeds.

63B-14-214. Refunding of Bonds.

(1) The State Bonding Commission may provide for the refunding of any of the Bonds issued under this Chapter in accordance with Title 11, Chapter 27, Utah Refunding Bond Act.

(2) For purposes of Title 11, Chapter 27, Utah Refunding Bond Act, the State is considered the public body and the State Bonding Commission its governing body.

63B-14-215. Tax exemption.

The Bonds issued under this Chapter, any interest paid on the Bonds, and any income from the Bonds are not taxable in this State for any purpose, except for the corporate franchise tax.

63B-14-216. Legal investment status.

Bonds issued under this Chapter are legal investments for all state trust funds, insurance companies, banks and trust companies, and may be used as collateral to secure legal obligations.

63B-14-217. Publication of resolution or notice -- Limitation on actions to contest legality.

(1) The State Bonding Commission may publish any resolution it adopts under this Chapter once in a newspaper having general circulation in Utah; or in lieu of publishing the entire resolution, publish a notice of bonds to be issued, titled as such, containing the information required in Subsection 11-14-21(3).

(2) Any interested person, for 30 days after the date of publication, may contest:

(i) the legality of the resolution;

(ii) any of the Bonds authorized under it; or

(iii) any of the provisions made for the security and repayment of the Bonds.

(3) After 30 days, a person may not contest the legality of the resolution, any of the Bonds authorized under it, or any of the provisions made for the security and repayment of the Bonds for any cause.

63B-14-218. Chapter to control in conflict -- Authority.

To the extent that this Chapter shall be in conflict with any other law or laws, the provisions of this Chapter shall be controlling and this Chapter shall constitute all authority necessary for the matters authorized hereby.

63B-14-219. Effective Date.

This Chapter shall be effective five days after the date of the Official Proclamation of the vote by the Governor, as provided in Section 20A-7-212(2).

63B-14-220. Report to the Legislature.

The Governor shall report the State Bonding Commission's proceedings in the Governor's budget to each annual general session of the Legislature for as long as Bonds issued under this Chapter remain outstanding.

I, Gayle McKeachnie, Lieutenant Governor of the State of Utah, hereby certify that the initiative entitled “**Utah Clean Water, Quality Growth and Open Space Initiative**” contained in this petition section is a full, true and correct copy of that initiative as proposed by the sponsors for referral to the people of the State of Utah for their approval as law, or rejection.

Dated this 22 day of March, 2004

Gayle McKeachnie

Gayle McKeachnie
Lieutenant Governor

